

MT LEGISLATIVE HISTORY

Chapter 484 1987

Bill (H) 93 S _____

Original bill & hist. ☒ C

H. Committee on Judiciary

Hearing Date(s) Jan 14 ☒ C

Jan 22 ☒ C

_____ ☐ C

_____ ☐ C

Date Out Jan 22 ☒ C

S. Committee on Highways + Transportation

Hearing Date(s) Feb 10 ☒ C

Feb 19 ☒ C

_____ ☐ C

_____ ☐ C

Feb 20 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

→ Judiciary

Mar 21 ☒

Mar 23 ☒

STATUS SHEET

Highways & Transportation COMMITTEE

50th LEGISLATURE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 28	Changing distribution of GVW fines for offense on county maintained roads	3/02	Rep. Jenkins	3/17	Be Concurred In	3/17
HB 73	Application of motor vehicle laws to minors except penalty imposition	1/28	Bradley	2/10	Be Concurred In	2/19
HB 92	Requiring fenders, splash aprons or flaps on pole trailers	1/26	Gilbert	2/10	Be Concurred In	2/19
HB 161	No restriction on vehicle load perishable Ag seed under certain conditions	2/02	Meyers	3/05	Be Not Concurred In As Amended - minority majority report	3/19
HB 261	Establishing a veterans' memorial highway.	2/10	Nathe	3/17	Be Concurred In	3/17

HOUSE BILL NO. 73

INTRODUCED BY BRADLEY, PECK, MILES,
KEENAN, GOULD, GILBERT

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

JANUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 13, 1987	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES PECK, MILES, KEENAN, GOULD, AND GILBERT ADDED AS SPONSORS.
JANUARY 23, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 24, 1987	PRINTING REPORT.
JANUARY 26, 1987	SECOND READING, DO PASS.
JANUARY 27, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 97; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
FEBRUARY 23, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 3, 1987	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON JUDICIARY.

MARCH 23, 1987

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 27, 1987

SECOND READING, CONCURRED IN.

MARCH 30, 1987

THIRD READING, CONCURRED IN.
AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 HOUSE BILL NO. 73
2 INTRODUCED BY BRADLEY
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE
6 MOTOR VEHICLE LAWS APPLY TO PERSONS UNDER AGE 18 THE SAME AS
7 THEY APPLY TO ADULTS, WITH THE EXCEPTION OF THE IMPOSITION
8 OF PENALTIES; AMENDING SECTIONS 61-8-401 AND 61-8-406, MCA;
9 REPEALING SECTIONS 61-12-601 THROUGH 61-12-603 AND
10 61-12-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 NEW SECTION. Section 1. Penalty for persons under the
14 age of eighteen. Notwithstanding any penalty prescribed
15 elsewhere, a person under age 18 who is convicted of any
16 offense under this title must be punished by:
17 (1) a fine, not exceeding \$50, provided that such
18 person may not be imprisoned for failure to pay such fine;
19 or
20 (2) impoundment by the probation officer of the motor
21 vehicle operated by the person for a period of time not
22 exceeding 60 days; however, if the court finds that the
23 person operated the vehicle without the owner's consent, the
24 motor vehicle may not be impounded; or
25 (3) both subsections (1) and (2).

1 NEW SECTION. Section 2. Suspending privileges of
2 persons under age eighteen. The privilege of driving a motor
3 vehicle on the highways of this state given to a person
4 under the age of 18 is subject to suspension or revocation
5 by the department in like manner and for like causes as an
6 adult.
7 Section 3. Section 61-8-401, MCA, is amended to read:
8 "61-8-401. Persons under the influence of alcohol or
9 drugs. (1) It is unlawful and punishable as provided in
10 61-8-714 and (section 1) for any person who is under the
11 influence of:
12 (a) alcohol to drive or be in actual physical control
13 of a vehicle upon the ways of this state open to the public;
14 (b) a narcotic drug to drive or be in actual physical
15 control of a vehicle within this state;
16 (c) any other drug to a degree which renders him
17 incapable of safely driving a vehicle to drive or be in
18 actual physical control of a vehicle within this state; or
19 (d) alcohol and any drug to a degree that renders him
20 incapable of safely driving a vehicle to drive or be in
21 actual physical control of a vehicle within this state.
22 (2) The fact that any person charged with a violation
23 of subsection (1) is or has been entitled to use alcohol or
24 such a drug under the laws of this state does not constitute
25 a defense against any charge of violating subsection (1).

(3) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions:

(a) If there was at that time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol.

(b) If there was at that time an alcohol concentration in excess of 0.05 but less than 0.10, that fact shall not give rise to any presumption that the person was or was not under the influence of alcohol but such fact may be considered with other competent evidence in determining the guilt or innocence of the person.

(c) If there was at that time an alcohol concentration of 0.10 or more, it shall be presumed that the person was under the influence of alcohol. Such presumption is rebuttable.

(4) The provisions of subsection (3) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol.

(5) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, and subsections (1) through (4) of this section, with the word "state" in 61-8-406 and subsection (1) of this section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties therein provided."

Section 4. Section 61-8-406, MCA, is amended to read:

"61-8-406. Operation of vehicle by a person with alcohol concentration of 0.10 or more. It is unlawful and punishable as provided in 61-8-722 and [section 1] for any person to drive or be in actual physical control of a vehicle upon the ways of this state open to the public while the alcohol concentration in his blood, breath, or urine is 0.10 or more."

NEW SECTION. Section 5. Repealer. Sections 61-12-601 through 61-12-603 and 61-12-703, MCA, are repealed.

NEW SECTION. Section 6. Codification instructions. (1) Section 1 is intended to be codified as an integral part of Title 61, chapter 8, part 7, and the provisions of Title 61, chapter 8, part 7, apply to section 1.

(2) Section 2 is intended to be codified as an integral part of Title 61, chapter 5, part 2, and the provisions of Title 61, chapter 5, part 2, apply to section 2.

- 1 NEW SECTION. Section 7. Effective date. This act is
- 2 effective on passage and approval.

-End-

Bill Olson, Montana Contractors' Association, testified that they urged immediate passage of HJR5. It would mean around 1500 jobs for the construction of highways in the state of Montana. He said it would take two to three months before the federal government will act on this bill to receive funding in time for construction.

Jim Manion, Montana Automobile Association, testified that they urged passage of HJR5. Without funding from the national level, there would not be a highway program, he said.

OPPONENTS: There were none.

QUESTIONS FROM THE COMMITTEE: Senator Farrell asked if there were funding for asphalt for the construction of highways this summer. Mr. Goznell responded by saying the Department of Highways no longer has the funds for the March letting of bids; therefore, with the passage of HJR5, the department would be able to move forward with the construction.

CLOSING REMARKS: Because the construction season is drawing very close, Representative Ed Grady urged passage of HJR5. Senator Beck will carry HJR5 on the floor of the Senate.

CONSIDERATION OF HOUSE BILL 73: Representative Dorothy Bradley, House District 79, testified that House Bill 73 would revise the manner in which the motor vehicle laws apply to persons under age 18. She said that under this title, a person who commits an offense would be tried as an adult and if convicted, would be punished by incarceration. She further stated, that House Bill 73 sends a message to juveniles who owns a vehicle that they are responsible the same as an adult.

Representative Bradley told members of the committee that this bill stems from a court case that went all the way to the Supreme Court for the young person who was charged and had several DUI charges against his driving record and when he reached the age of 18 years of age, they were dismissed; and, she said, when he was 20 years old he was charged again with DUI and, because prior charges were dropped, they could not hold any of the prior DUI charges against him and these charges were no longer on his record.

She further stated that a person who is under 18 years of age and commits an offense under this title would be tried as an adult and, if convicted, shall not be punished by incarceration. Section 61-8-401, MCA would be amended to read: "Persons under the influence of alcohol or drugs."
(1) It is unlawful and punishable as provided in 61-8-714 for any person who is under the influence of a alcohol and drugs.

PROPOSERS: Bill Furois, Department of Justice, testified the department supports House Bill 92. He said that 4% are under the age of 18 and that 7% of our drivers of accidents are under the age of 18. He further stated that 12% of the drivers injured are also under 18 years of age.

Mickey Nelson, Lewis & Clark County Coroner, testified that House Bill 73 was discussed at the Lewis & Clark County DUI Task Force and that teenagers are treated differently when someone is killed. He said it is still the same burden on families as well as the economically affects on our state and, he said, juveniles should not be treated any different when it comes to complying points.

Rayleen Beaton, City Commissioner with the city of Helena, expressed support of House Bill 73. As a member of the DUI task force, Mrs. Beaton felt the House Bill 73 is an important piece of legislation. She urged passage of the bill.

Mrs. Beaton also testified that when a juvenile has an alcohol problem and, by calculation points, they would receive the help that is needed quicker.

Jim Manion of the Montana Automobile Association also testified in support of House Bill 73.

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE: There were none.

CONSIDERATION OF SENATE BILL 271: Senator Hirsch, Senate District No. 13, testified that Senate Bill 271 eliminates the unfair and deceptive business practice which is the advertising, offering for sale or sale of motor fuel in the state of Montana with the intent of injuring competitors or lessening competition. He said that this act shall provide the wholesalers of motor fuel be required to add a minimum markup of three percent to their current invoice price plus applicable freight costs.

He also stated that this act would provide that the retailers of motor fuel shall add a minimum markup of six percent to his current invoice price and shall also provide that if the wholesaler is also retailing motor fuel, he must add both markup percentages to this cost.

VISITORS' REGISTER.

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
G. S. Moore	Highway	HB 71	✓	
Handy Whetley	St. John's	SB 271	✓	
Karlson Beaton	St. John's	HB 73		
W. J. McAndrew	Mont. Pipeline Dist.	HB 271	✓	
B. J. McAndrew	Comm. of H. of C.	HB 271	✓	
JOHN TACEART	ATOM	HB 271	✓	
Bill Taceart	ATOM	HB 271	✓	
J. M. McAndrew	HB 271	HB 271	✓	
H. E. "Mickey" Nelson	L. & C. Co. D. U. F. T. & E. Co.	HB 73	✓	
Art. Mike Freilick	MONTANA HIGHWAY PATROL	HB 92	✓	
Dan Bennett	Highway Users	HB 271	✓	
Bob Leland	ATOM	HB 271	✓	
Richard Shawin	ATOM	271	✓	
Richard Shawin	ATOM	271	✓	
Kathy Sealey	Justice	HB 73	✓	
Bill Olsen	HB Contractors	HB 73	✓	
Bill Furois	Dept of Justice	HB 73	✓	

(Please leave prepared statement with Secretary)

CONSIDERATION OF HOUSE BILL 297: Representative Kadas, House District No. 55, sponsor of the bill, testified that House Bill 297 was a bill that would exempt approved bicycle highway racing from compliance with traffic safety laws. Currently when a group wants to set up bicycle races they have to go to the sheriff's department or police department to receive approval of the course they will be using. This involves the closing of a particular road, and after the race is over they reopen that section of the road again for normal traffic use. Closing a section of road that is being used for bicycle racing becomes unlawful when approved by state or local authorities on any highway under their respective jurisdictions.

Representative Kadas is asking that House Bill 297 be approved to change the law so when one does receive approval for bicycle racing on the highways it will be legal.

PROPOSERS: There were none.

OPPOSERS: There were none.

QUESTIONS FROM THE COMMITTEE: Senator Lybeck spoke about the various incidents that have taken place in the Kalispell area where he lives and the problems that coincide with bicycle racing and other marathons.

Senator Hofman spoke about the on going interest in bicycle racing and other marathons over the years and the many problems that have arisen from these races.

CLOSING: Representative Kadas urged passage of the bill by the committee. Senator Halligan will carry House Bill 297 on the floor of the Senate.

DISPOSITION OF HOUSE BILL 297: A motion was made and seconded that House Bill 297 BE CONCURRED IN. The motion was unanimously carried.

DISPOSITION OF HOUSE BILL 73: The committee took Executive Action on House Bill 73. House Bill 73 was presented by Representative Dorothy Bradley. House Bill 73 would revise the manner in which the motor vehicle laws apply to persons under the age of 18.

Senator Farrell moved that House Bill 73 BE CONCURRED IN; a motion was moved and seconded that House Bill 73 BE CONCURRED IN. It was unanimously carried by the committee.

DISPOSITION OF HOUSE BILL 92: Executive action was taken on House Bill 92, which was presented by Representative Gilbert. House Bill 92 would require fenders, splash aprons, or flaps on pole trailers. Senator Lybeck moved that House Bill 92

February 20

1937

MR. PRESIDENT

We, your committee on Highways & Transportation

having had under consideration House Bill No. 73

third reading copy (Blue)
color

APPLICATION OF MOTOR VEHICLE LAWS TO MINORS--EXCEPT PENALTY

Respectfully report as follows: That HOUSE BILL No. 73

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR TVEIT

Chairman.

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325

DAYS: MON THRU FRI

TIME: 10:00 A.M.

SECRETARY-MARY HUBER

--BILL NO--	--REFER DATE--	--HEARING DATE--	--CONSIDERATION DATES--	COMMITTEE ACTION	--REREFERRED TO COMM--	DATE OUT
HB0013	1/21	2/05		CONCUR AS AMENDED		3/3
MERCER, JOHN			EXEMPT IN BANKRUPTCY ACTION ALL PROPERTY OF INDIVIDUAL EXEMPT UNDER MCA			
HB0019	1/24	2/05		CONCUR AS AMENDED		3/9
MERCER, JOHN			GENERAL REVISION OF LAWS RELATING TO PROPERTY EXEMPT FROM EXECUTION			
HB0021	1/21	2/05		CONCUR AS AMENDED		3/4
FRITZ, HARRY			RAISE LEGAL DRINKING AGE FROM 19 TO 21; PROVIDE EFFECTIVE DATES			
HB0037	1/21	2/10		CONCUR		3/5
BRADLEY, DOROTHY			DEFENDANT'S RECORD EXPUNGED UPON DISMISSAL OF CHARGES			
HB0042	1/21	3/03		CONCUR AS AMENDED		3/3
COBB, JOHN			CLARIFY LEGAL STANDARD GOVERNING LANDOWNER LIABILITY			
HB0053	1/21	3/03		CONCUR		3/11
EUDAILY, RALPH			GENERALLY REVISE MCA			
HB0058	1/27	3/04		CONCUR		3/4
KEENAN, NANCY			LET PSYCHOLOGISTS EXAMINE PERSONS WHEN MENTAL DEFECT IS A CRIMINAL ISSUE			
HB0065	1/21	3/04		CONCUR		3/4
PECK, RAY			SERVING OUT TRAFFIC FINES AT \$10 PER DAY			
HB0073	3/03			CONCUR AS AMENDED		3/21
BRADLEY, DOROTHY			APPLICATION OF MOTOR VEHICLE LAWS TO MINORS -- EXCEPT PENALTY IMPOSITION			
HB0077	1/21	2/12		CONCUR		3/4
BROWN, JAN			ALLOWS PATERNITY ACTION BY STATE AGENCY UNTIL CHILD BECOMES 21 YEARS OF AGE			
HB0078	3/02	3/13		CONCUR AS AMENDED		3/19
BROWN, JAN			PERMIT ATTACHMENT OR GARNISHMENT OF WORKERS' COMP. TO PAY CHILD SUPPORT			

He didn't like Title 45, Chapter 5. Senator Mazurek suggested deleting section 13 of the bill and leaving the record section the way it was. Ms. Lane explained section 6 includes finger prints, which would deal with juvenile records. Senator Halligan MOVED TO STRIKE section 13 of the bill and maintain the record section the way it stands now. The motion CARRIED.

Senator Mazurek said in section 12, he didn't know if it was wise to allow the victim of a crime by a juvenile to know the identity of the juvenile or their background, unless it disclosed important factors.

Senator Galt said if a delinquent youth broke your arm, you would want to know. Senator Galt asked if a youth gets to stay in youth court if he commits a serious offense. Senator Mazurek said sometimes a serious juvenile offender does stay in youth court because they can't do anything to him anyway until he is 21 years old.

Senator Pinsoneault said last session the legislature passed a bill allowing 16 year olds to be tried as adults. Senator Mazurek stated that was correct. Ms. Lane said on page 7 of the bill, there is a list of crimes that a youth can be tried as an adult for. She pointed out on page 22, line 3, it states the restitution by the parents. Senator Pinsoneault said some parents make kids do time in jail or pay the fine to teach them to respect the law. Senator Mazurek reminded the committee the parents are only liable if the youth lives at home. Senator Mazurek asked if the committee wanted to limit restitution for parents. The committee responded no. Senator Brown MOVED the change in the amendments. The motion CARRIED.

Senator Brown moved the bill BE CONCURRED IN AS AMENDED. Senators Yellowtail and Mazurek voting no, the motion CARRIED.

ACTION ON HOUSE BILL 73: Ms. Lane gave the committee amendments. (Exhibit 4) The committee added an amendment to make the sentence structure more clear. (See Standing Committee Report) The committee discussed the first proposed amendment. Senator Mazurek didn't like the fact the youth could be tried as an adult in this bill. The committee decided against that amended language and put in the second amendment on the Standing Committee Report. The committee adopted the second proposed amendment. (See Exhibit 4 and 3rd amendment on Standing Committee Report). The committee did not agree on the third proposed amendment because it was compatible to the

first proposed amendment. Senator Yellowtail moved the amended amendments. The motion CARRIED.

Senator Brown moved House Bill 73 BE CONCURRED IN AS AMENDED. The motion CARRIED.

ACTION ON HOUSE BILL 283: Valencia Lane distributed the amendments and explained them. (Exhibit 5) Senator Mazurek suggested changing the last amendment on Exhibit 5 so that the language was more clear. The amendments passed with the changes. Senator Halligan moved House Bill 283 BE CONCURRED IN AS AMENDED. The motion CARRIED.

ACTION ON HOUSE BILL 284: Valencia Lane distributed copies of amendment. (Exhibit 6) Senator Beck said the amendment or bill doesn't make it clear if a person has to give notice for a vacation. He said a vacation might be more than two weeks. Senator Mazurek felt this bill should not include the penalty as an aggravated felony.

Mr. Bill Harrington, Child Support Advisory Council, and an attorney, stated the major problem with not receiving child support is visitation rights because the rights have been violated, so the child support stops. Ms. Lane found section 2 in the bill where it clarifies vacation time. She said there is great concern about the father showing up drunk for visits. Senator Halligan felt the bill should include the words "good cause" when it comes to rejecting a visitation.

Senator Pinsoneault thought "good cause" was too broad a term and could open a lot of avenues. Senator Halligan said the county attorney needs broad terms in these cases because it gives him discretion. Valencia Lane suggested using the word "reasonable" over "good". Senator Halligan moved the "reasonable cause" clause on page 2, line 18. Senator Pinsoneault wanted to adopt the amendments given March 16. (Exhibit 7) Senator Halligan echoed a broad area is better to work with in family law. Senator Yellowtail said there should be clearer language on page 2, line 3, with the vacation problem. Senator Halligan moved with his other motion, Valencia Lane's amendment and a change on page 2, line 3, to clear the vacation situation. The motion CARRIED. Senator Halligan moved House Bill 284 BE CONCURRED IN AS AMENDED. The motion CARRIED, with Senator Mazurek voting no.

50th LEGISLATIVE SESSION -- 1987

Date March

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>		X	X
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>		X	X
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

PROPOSED AMENDMENTS TO HOUSE BILL 73
(Bradley) (Proposed by David Hull)
Third reading copy (blue)

1. Page 1, line 20.

Following: "TITLE"

Strike: "MUST BE TRIED AS AN ADULT AND"

2. Page 1, line 23.

Following: "\$50"

Strike: "NOT LESS THAN AND"

3. Page 2, line 14.

Following: line 13

Insert: "(5) ~~Nothing in this section shall restrict the
authority of a county attorney to prosecute a case in
accordance with Title 41, chapter 5.~~"

MR. PRESIDENT

We, your committee on SENATE JUDICIARYhaving had under consideration..... HOUSE BILL No. 73Third reading copy (blue)
color

Application of motor vehicle laws to minors--Except penalty imposition.

Bradley (Tveit)

Respectfully report as follows: That..... HOUSE BILL No. 73

1. Page 1, line 19.

Following: "WHO"

Strike: "COMMITTS"

Insert: "is convicted of"

2. Page 1, lines 20 and 21.

Following: "TITLE" on line 20

Strike: remainder of line 20 through "CONVICTED" on line 21

3. Page 1, line 23.

Following: "\$50"

Strike: "NOT LESS THAN AND"

C:\LANE\WP\AMDMB73.
70801/C:JEANNE\WP:jj
Amendments, HB 73

DO MASS

UNWOKRASS

AND AS AMENDED
BE CONCURRED IN

Senator Mazurek

Chairman.

STATUS SHEET

50TH LEGISLATIVE SESSION

JUDICIARY

COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
13	12/29/87	1/12/87	1/12/87			1/12/87					
19	12/29/87	1/12/87	1/14/87			1/14/87					
21	12/29/87	1/7/87	1/9/87			1/9/87					
37	12/29/87	1/8/87	1/9/87			1/9/87					
42	12/29/87	1/9/87	1/9/87			1/9/87					
45	12/29/87	1/7/87	tabled 2/12/87								
53	1/2/87	1/9/87	1/9/87	1/9/87							
57	1/87	2/17/87 2/5/87	tabled 2/20/87								
60	1/5/87	1/15/87	2/2/87				2/2/87				
62	1/5/87	1/16/87	1/23/87		1/23/87						
63	1/5/87	1/14/87	1/22/87			1/22/87					
67	1/5/87	1/13/87	1/13/87			1/13/87					
68	1/5/87	1/13/87	tabled 2/12/87			2/19/87					
69	1/5/87	1/13/87	1/23/87			1/23/87					

a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

January 14, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on January 14, 1987, at 8:00 a.m. in Room 312-D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Eudaily who was excused.

HOUSE BILL NO. 73: Rep. Bradley, District No. 79, sponsor, stated that a recent Montana Supreme Court case, State vs. Gee, section 61-12-601, MCA, was interpreted as precluding a driver under 18 from being convicted of and punished for DUI, or any specific motor vehicle offense. The proposed legislative changes in HB 73, are designed to clarify that a person under 18 may be convicted of a vehicular offense in the same manner as an adult may be convicted under the motor vehicle laws. The only difference in treatment of a minor offender will be the penalty, which will include no possibility of jail time. Driving privileges would be subject to the same civil sanctions (suspension or revocation) under HB 73, whether the offender is under 18 or not. She submitted written testimony. (Exhibit A). Rep. Bradley also submitted an amendment. (Exhibit B).

PROPONENTS: LARRY MAJERUS, Department of Justice, Motor Vehicle Division, requested that Rep. Bradley carry the bill and stated the bill would solve many of the problems on the driving records. The purpose of the bill was to make everything, except the penalty, the same. It has caused problems with insurance records in the fact that when the department reports violations of a minor it has been reported to the insurance company as simply an unlawful violation of a minor. If the bill was passed, a person under 18, who had committed a DUI offense, can be convicted in the same manner as an adult.

DORIS FISHER, Gallatin County Coroner, representing the DUI Task Force and Montanans Against Drunk Driving, stated that kids respect fair laws, strict laws, and laws they can understand. She urged support of the bill so that confusion could be dismissed.

BILL ELLIOTT, Department of Justice, a training officer with the highway traffic safety, stated the point system should be kept and carried on into adulthood.

MICKEY NELSON, Lewis and Clark County DUI Task Force, Chairman, felt the \$50.00 fine was not enough.

JIM MANION, Montana Automobile Association, stated he and the Association were active members of the DUI Task Force in Lewis and Clark County. They supported the legislation and anything that could be done to tighten up the DUI laws.

SUSAN J. DEBREE, Lewis and Clark County Health Department, urged support and passage of the bill.

RAYLEEN BEATON, Helena City Commissioner, pointed out that this was a priority piece of legislation and urged passage. She spoke for the local Helena Task Force and the Bozeman, Butte and Missoula Task Forces.

SHIRLEY SHEETS, representing the St. Paul's United Methodist Church, Director of Christian Education, and member of Project CARE felt the laws must be made tougher and HB 73 was a good start.

There were no further proponents and no opponents.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 73.: Rep. Hannah asked Rep. Bradley if she believed that a juvenile should be treated as an adult, why not include the exact same penalties. Rep. Bradley stated there was a different treatment with emphasis on rehabilitation and this was appropriate for youth as long as there were stiff penalties.

Rep. Daily asked Rep. Bradley if his son, who was 15 years old, was using his car and was picked up for DUI, would his car be impounded under HB 73. She stated "no", if he did not have the owners consent to use the car. Rep. Daily stated his son would have his consent to use the car. She stated, under current law, if his son had consent to drive the car, it would be impounded.

Rep. Strizich asked Rep. Bradley what her intention was in transferring jurisdiction to J.P. Court which was where most traffic offenses were dealt with but in the new Section 1, impoundment of vehicles was to be done by the probation officers and probation officers are not equipped to do this. Rep. Bradley stated that was a good point and it was probably an oversight. The intention was to leave the language the same and this should be changed.

Rep. Bradley closed the hearing on HB 73.

HOUSE BILL NO. 120: Rep. Bradley asked that the bill be tabled. Chairman Lory stated that this would be done in Executive Session.

COMMITTEE

Date Jan. 14, 1987

House Bill 73
Introduced by Bradley

In a recent Montana Supreme Court case, State v. Gee, section 61-12-601, MCA, was interpreted as precluding a driver under 18 from being convicted of and punished for DUI, or any specific motor vehicle offense. The proposed legislative changes, in HB 73, are designed to clarify that a person under 18 may be convicted of a vehicular offense in the same manner as an adult may be convicted under the motor vehicle laws. The only difference in treatment of a minor offender will be the penalty, which will include no possibility of jail time.

Driving privileges would be subject to the same civil sanctions (suspension or revocation) under HB 73 whether the offender is under 18 or not.

Section 1 of HB 73 creates a penalty for drivers under 18 years of age who are convicted of any motor vehicle offense. The penalty provides no jail time. Subsection 2 carries wording from current law allowing impoundment of a vehicle only in certain cases.

Section 2 of HB 73 provides that the driving privilege of a driver under age of 18 is to be administered the same as the driving privilege of an adult and is subject to the same suspension and revocation action.

Sections 3 and 4 of HB 73 amend the DUI and Per Se laws to recognize the penalty provisions of section 1 for drivers under the age of 18.

Section 5 of HB 73 repeals the current sections which were interpreted as giving drivers under age 18 different treatment relating to conviction of traffic offenses and suspension or revocation of driving privilege.

Section 61-12-601(1) is repealed because the district court is an inappropriate forum for motor vehicle offenses. Justice and Municipal courts have jurisdiction over adults who violate the motor vehicle statutes; it should be similar for youths. Youths who violate criminal statutes and other offenses are under the jurisdiction of the youth court, not the district court. The youth court specifically excludes motor vehicle offenses from its jurisdiction in 41-5-203. Thus youths should be under the same jurisdiction as adults for motor vehicle offenses.

Section 61-12-601(2) is repealed because there will be a new separate penalty section covering drivers under 18 in title 61 (Section 1 of this bill).

Section 61-12-602 is repealed because as a practical matter, persons under 18 have been cited for motor vehicle offenses in the same manner as adults are cited. There is no need for a different procedure for persons under 18. Section 61-12-603 is repealed for similar reasons.

Section 61-12-703 is repealed because there will be no traffic offenses heard in district court.

Montana data on drivers under the age of 18:

1. 3.4% of licensed drivers
2. 3.0% of 1st DUI convictions
3. 5.6% of all traffic convictions
4. Involved in accidents during 1984 and 1985 as follows:
 - 7% of drivers in fatal accidents
 - 12% of drivers in injury accidents
 - 11% of drivers in all traffic accidents
5. 10% of Montana drivers declared to be habitual traffic offenders gained some or all of their driving points while under the age of 18 years.

EXHIBIT B
DATE 1-14-87
HB #73

Amendments to HB 73

1. Page 1, line 17.
Following: "fine"
Strike: ", not exceeding \$50"
Insert: "equal to that imposed upon an adult convicted of
any motor vehicle offense"

QUESTIONS (OR DISCUSSION) ON HOUSE BILL NO. 207: Rep. Eudaily questioned Rep. Addy in regard to third party claims. He stated that a third party claim is one that is filed after the suit is filed in the first instance. Rep. Giacometto asked Rep. Addy if he had any problems with the proposed amendment and he stated that he did not.

Rep. Mercer questioned Mr. England about the applicability date in regard to the act being set up so that it applies to causes of action that are filed after the effective dates. Mr. England stated that Rep. Mercer was correct. Most changes in tort laws ought to apply to causes of action arising after the applicability date.

Rep. Addy closed the hearing on HB 207.

EXECUTIVE SESSION

ACTION ON HOUSE BILL NO. 73: Rep. Mercer moved his proposed amendments. (See amendments attached). Rep. Miles stated that the amendments clarify the intent of the bill and supports them. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Brown moved DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 73, DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO 120: Rep. Hannah moved to TABLE the bill. A voice vote was taken and the motion CARRIED unanimously.

ACTION ON HOUSE BILL NO. 78: Rep. Gould moved that HB 78 DO NOT PASS. Rep. Hannah requested that Rep. Gould discuss his motion. He stated that if a person is an injured, disabled worker and is already suffering from a cut in wages, if he could not pay before, he cannot pay now. Rep. Bulger stated that paramount is the obligation that the gentleman incurs by fathering children and nothing should free him of that obligation. Rep. Giacometto supported the bill. Rep. Brown opposed the bill. Question was called and a voice vote was taken. The motion FAILED. Rep. Bulger moved that HB 78, DO PASS. Rep. Addy moved to amend the bill so that only lump sum payments are subject to attachment. Rep. Bulger opposed the amendment. Question was called. Rep. Eudaily moved that a roll call vote be taken. (Roll call vote attached). The motion FAILED 9-9. Discussion continued on the bill and Rep. Giacometto made the motion to RECONSIDER HB 78 as DO PASS. Rep. Mercer made the motion that a roll call vote be taken. (Roll call vote attached). The motion FAILED 8-10. Rep. Giacometto requested that the committee discuss the bill further and that a subcommittee be formed to work on

DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date *January 22, 1987*

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

STANDING COMMITTEE REPORT

January 22,

1937

Mr. Speaker: We, the committee on Judiciary
report House Bill No. 73

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

AMENDMENTS TO HB 73, INTRODUCED COPY.

1. Title, line 5.

Strike: "CLARIFY THAT"

Insert: "REVISE THE MANNER IN WHICH"

2. Title, line 6.

Strike: "THE" through "PENALTIES" on line 8

3. Page 1, line 13.

Strike: "Penalty for"

Insert: "Offenses committed by"

4. Page 1, line 14.

Strike: "Notwithstanding" through "must" on line 16

Insert: "A person under 18 years of age who commits an offense under this title must be tried as an adult and if convicted shall not be punished by incarceration, but shall"

5. Page 1, line 17.

Strike: ", not exceeding \$50"

Insert: "not less than and not to exceed the fine that could be imposed on him if he were an adult"

6. Page 1, line 19.

Strike: "or"

Insert: "(2) revocation of his driver's license by the court or suspension of the license for a period set by the court;"

7. Page 1, line 20.

Strike: "(2)"

Insert: "(3)"

Strike: "the probation officer"

Insert: "a law enforcement officer designated by the court"

8. Page 1, line 22.

Strike: "; however," through "impounded" on line 24

FIRST

WHITE

reading copy (_____)
color

Insert: "if the court finds either that he owns the vehicle or is the only person who uses the vehicle"

9. Page 1, line 25.

Strike: "(3)"

Insert: "(4)"

Strike: "both"

Insert: "any combination of"

Strike: "and (2)"

Insert: "through (3)"

7
AN573a/JM/JM1